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SIPDIS

DEPT FOR AF/S (MHARRIS)

E.O. 12958: N/A

TAGS: PHUM PGOV WZ

SUBJECT: SWAZI SOCIETAL DISCRIMINATION AGAINST GAYS AND LESBIANS
COMMON, BUT LEGAL STATUS CAUTIOUSLY TOLERANT

REF: 130765

¶1. Legal Status: British colonial era legislation against sodomy remains on the books, but post contacts knew of no cases where it had been used to arrest homosexuals. Early versions of the proposed Sexual Offenses and Domestic Violence bill, which has been before Parliament since at least 2006, included a provision that would declare homosexuality a crime with a minimum two year jail sentence.

NGOs and political "progressives" apparently were successful in getting this provision removed because (a) it was contrary to Swaziland's obligations under the International Covenant on Civil and Political Rights, and (b) was not relevant to the thrust of the bill.

¶2. Post has not been able to secure a copy of the current version of the proposed bill to confirm that the provision on homosexuality is no longer there, due to the Swazi traditional Incwala ceremonies lasting all month. The bill has been pending for years, and the Prime Minister had predicted it would be passed in 2009 on the wind beneath the wings of the Anti-Trafficking legislation and attention to the serious problem of domestic violence. It will resurface in 2010, but there is no known movement to use it to ban homosexuality.

¶3. Public attitudes: Gays and lesbians face considerable societal discrimination in Swaziland, and homosexuals generally conceal their sexual preference. Gays and lesbians who are open about their sexual orientation and relationships face censure and exclusion from the chieftdom-based patronage system, including possible eviction from homes on Swazi nation land.

¶4. Most Swazi religious groups (overwhelmingly Christian-affiliated) voice strong criticism of homosexuality, and blame it on everything from western cultural influence to demons. Some progressive elements and NGOs advocate for equal protection and non-discrimination toward homosexuals, and in general the public attitude (at least among the more educated population) seems to be one of tolerance. Although the Lesbians and Gay Association in Swaziland has been allowed to operate, some public functions (such as a "Miss Gay" beauty pageant) have been closed down by police within the last two years. The media has reported cases in the last year of fathers from rural areas beating their sons severely for actions or appearances judged to indicate a homosexual preference. Attitudes toward male homosexuals are more harsh than toward females.

Case Example: Lesbian Engagement Prompts Criticism

¶5. The Swazi constitution defines marriage as a union between a man and a woman. Research uncovered a report of a woman-to-woman marriage some years ago, however, that was recognized by a chief for property purposes. The waters were recently tested in a highly publicized September 2009 engagement announcement by the president of the Lesbians and Gay Association in Swaziland and her partner, the first public announcement of its kind in Swaziland. Traditional authorities, church leaders, and some members of Parliament spoke out against the engagement, calling it immoral and against both

Swazi culture and Christianity. The Association president said she subsequently lost her job due to the prominent negative media coverage that included her personal life, family relationships, and legal issues. She subsequently attempted suicide, the couple separated, accusations were made in court by one regarding stealing by the other, and the former fiance of the Association president was recently found dead. The death is being investigated as a murder, but not as a hate crime. In any case, the sad ending is fuel for the anti-gay fires that smolder in Swaziland.

Morrison